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C O N F I D E N T I A L SANTO DOMINGO 001017

SIPDIS

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TAGS: PGOV CJAN PREL DR

SUBJECT: SUPREME COURT CHIEF JUSTICE EMPHASIZES COMMITMENT  
TO JUDICIAL INDEPENDENCE AND COOPERATION ON EXTRADITIONS IN  
MEETING WITH CHARGE

Classified By: POLECON Counselor Alexander Margulies. Reason: 1.5(b/d)

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¶1. (C) SUMMARY: Supreme Court Chief Justice Jorge Subero  
Isa stressed his commitment to judicial independence and  
reform, but cautioned that there are powerful interests  
working to undermine his efforts and return the judiciary to  
subservience to political and economic influence, in a 9/04  
meeting with Charge, USAID Director and POLECON Counselor.  
Subero praised USAID programs for providing essential  
assistance to judicial reform efforts since the beginning of  
his tenure as Chief Justice in 1997 and looked forward to  
further collaboration. Charge thanked the Chief Justice for  
the judiciary's cooperation on U.S. extradition requests;  
Subero replied that this remains a priority for him, noting  
that he sees narcotics trafficking and terrorism as the most  
significant challenges over the next five years. END SUMMARY.

¶2. (C) The Chief Justice spoke proudly of the  
USAID-supported Judicial Academy, which is recognized  
throughout Latin America as the premier training school for  
judges, noting that Dominican judges have a high morale, are  
young (most under 40 years of age), and unconnected with the  
judiciary's corrupt past. He emphasized the importance of  
the courts' criminal convictions of powerful bankers for  
their roles in the 2003 banking scandals and resulting  
financial collapse, noting that this was an historic  
development in a country where impunity had long reigned.  
Nonetheless, Subero lamented, he "is not optimistic," about  
the future of judicial independence in the Dominican Republic.

¶3. (C) Subero cautioned that powerful political and  
financial interests, citing the imprisoned bankers in  
particular, are determined to return the judiciary to  
subservient status, pointing at the ongoing efforts to create  
a Constitutional Tribunal (CT) that would handle  
constitutional issues currently dealt with by the Supreme  
Court, as well as the proposal to remove Administrative  
Tribunals from the judiciary's control. He explained that  
the creation of a separate CT would inevitably result in a  
situation where "litigation would never end," as lawyers  
would delay trials by raising constitutional objections that  
would have to be referred to the CT before proceedings could  
continue. Prior cases, including those involving the  
convicted bankers, could be reopened by the CT. The  
consequences for resolution of commercial disputes would also  
be negative, Subero observed, adding that he has stressed  
this point to business groups he has met with to lobby  
against the proposal. He also argued that the influx of  
foreign direct investment in recent years was a direct result  
of the Court's serious work and the predictability in the

application of law and regulations that it fostered.

¶4. (C) The Chief Justice rejected complaints that the current Supreme Court takes too long to resolve constitutional cases, noting that it has handed down final decisions in most of the 514 such cases brought before it over the past decade. He declared his readiness to compromise on this issue through the creation of a Constitutional Chamber (Sala Constitucional) within the existing Supreme Court, which would hear constitutional cases (currently, the plenum of all 16 Supreme Court Justices hear constitutional challenges). Subero also questioned the motives of the civil society NGOs FINJUS and Citizen's Participation in supporting the CT proposal, claiming that those NGOs' directors' (unexplained) "personal reasons" were behind their positions on this issue.

¶5. (C) Charge praised the accomplishments of the Chief Justice and the judiciary, emphasized the importance that the USG places on the judicial reform and strengthening and our continued commitment to support these processes. Subero expressed his appreciation for USG assistance, noted that USAID programs were essential components of the reform movement since his administration commenced in 1997, and looked forward to continued collaboration.

¶6. (C) Charge then thanked Subero for the Supreme Court's cooperation in expediting the processing of USG extradition requests, which primarily deal with narcotraffickers. Subero stressed his determination to continue prioritizing extradition cases, explaining that in his view the greatest challenges to democracy over the next five years come from

narcotrafficking and terrorism. He added that he would raise the Charge's visit in an upcoming meeting with the Supreme Court's Criminal Chamber, which hears extradition cases.

¶7. (C) COMMENT: Subero has been at the forefront of efforts to reform the judiciary and strengthen it as an independent branch of government able to stand up to the executive branch. That his accomplishments are resisted by powerful political and business interests is not surprising. Whether the creation of a Constitutional Tribunal represents an effort to bypass the Supreme Court is debatable (Post is preparing an analysis of the proposed constitutional reforms to be sent SEPTEL). END COMMENT.

LAMBERT